

#12

MINNESOTA PUBLIC FACILITIES AUTHORITY

IN THE MATTER OF THE PROPOSED  
RULES OF THE PUBLIC FACILITIES  
AUTHORITY GOVERNING THE ADMINISTRATION  
OF THE DISTRICT HEATING PERMANENT  
DESIGN AND CONSTRUCTION LOAN RULES

DEC 01 1988

STATEMENT OF NEED  
AND REASONABLENESS

INTRODUCTION:

This Statement of Need and Reasonableness describes the rules proposed for the operation of the District Heating Permanent Design and Construction Loan Program. The format used in this statement is as follows: each rule is first stated, followed by a discussion of the necessity of the proposed rule, and its reasonableness.

7380.0600 DEFINITIONS

SUBPART 1. SCOPE. THE TERMS DEFINED IN THIS PART AND IN MINNESOTA STATUTES, SECTION 116J.36, SUBDIVISION 2, APPLY TO PARTS 7380.0600 TO 7380.0650.

To allow for clear understanding of these rules, it is necessary to define frequently used terms which might not be understood by the reader or terms which appear in a shorthand manner. It is reasonable to have words mean the same thing in these rules as they do in the statutes. It would be an unnecessary duplication of statutory language to repeat all the definitions here. It is also reasonable to establish these definitions prior to the actual listing of the rules to alert the reader to such terms and to allow for a quick reference point.

SUBPART 2. CONSTRUCTION LOAN. "CONSTRUCTION LOAN" MEANS A LOAN TO FUND CONSTRUCTION COSTS.

This definition is needed to inform the reader of the type of activities that a construction loan may be used for and refers them to the statute which governs construction loans. This definition is reasonable to include here since construction loans are one of two types of loans governed by these rules.

SUBPART 3. DESIGN LOAN. "DESIGN LOAN" MEANS A LOAN MADE TO FUND THOSE ACTIVITIES REQUIRED TO BE COMPLETED DURING THE FINAL DESIGN PHASE OF A DISTRICT HEATING SYSTEM IN ORDER TO FINANCE AND CONSTRUCT THE SYSTEM. THESE ACTIVITIES INCLUDE CONDUCTING ECONOMIC FEASIBILITY ANALYSES, OBTAINING HEAT SOURCE COMMITMENTS AND CUSTOMER CONTRACTS, STRUCTURING FINANCING, AND RELATED DISTRICT HEATING PROJECT TASKS.

This definition is needed to inform the reader of the type of activities that a design loan may be used for and give several non-exclusive examples. This definition is reasonable to include here since design loans are one of two types of loans governed by these rules.

SUBPART 4. DISTRICT HEATING PROJECT OR PROJECT. "DISTRICT HEATING PROJECT" OR PROJECT MEANS A DISTRICT HEATING DESIGN OR CONSTRUCTION PROJECT FOR A NEW OR EXISTING SYSTEM.

This term is needed since it defines the undertaking to develop a district heating system and this undertaking is what the design and construction loans will be used for. It is reasonable as it is consistent with statutes.

SUBPART 5. EXISTING SYSTEM. "EXISTING SYSTEM" MEANS A DISTRICT HEATING SYSTEM THAT HAS AT LEAST ONE CUSTOMER AND HAS BEEN OPERATIONAL FOR MORE THAN ONE YEAR.

This definition is needed to clarify the difference between an existing system and new system (subp. 8). The contents of the application for each type of system is different. It is reasonable to clearly define "existing system" because it is a phrase which can mean something different to each reader.

SUBPART 6. FINANCIAL CONSULTANT. "FINANCIAL CONSULTANT" MEANS A REPUTABLE PERSON OR FIRM EXPERIENCED IN WORKING WITH COMPLEX REVENUE - SUPPORTED FINANCIAL PLANS AND QUALIFIED TO ASSESS THE FINANCIAL CONDITION AND OPERATION OF THE DISTRICT HEATING PROJECT.

This definition is needed to stipulate the qualifications of the preparer of the complete economic analysis of the project. It is reasonable because the decisions of the Authority are based in part on the financial statements. These statements must therefore be prepared by an experienced person or firm.

SUBPART 7. GROSS REVENUES. "GROSS REVENUES" MEANS ALL REVENUES, FEES, USER CHARGES, RENTS, FRANCHISE FEES, SPECIAL ASSESSMENTS, AND OTHER INCOME AND RECEIPTS DERIVED FROM THE OWNERSHIP OR OPERATION OF THE DISTRICT HEATING PROJECT, THE PROCEEDS OF ANY INSURANCE THAT INSURES AGAINST THE LOSS OF GROSS REVENUES, ANY INVESTMENT INCOME FROM MONEY OR SECURITIES DERIVED FROM THE STATE LOAN UNDER MINNESOTA STATUTES, SECTION 116J.36, AND ANY OTHER INCOME AND RECEIPTS ATTRIBUTABLE TO THE OWNERSHIP OR OPERATION OF THE PROJECT FROM WHATEVER SOURCE DERIVED, CALCULATED ON AN ANNUAL BASIS.

This definition is needed to show what annual revenues will be considered in calculating the debt service coverage, and several non-exclusive examples of such revenues are given. It is reasonable for a reader to know what criteria will be used to calculate the debt service coverage.

SUBPART 8. NEW SYSTEM. "NEW SYSTEM" MEANS A DISTRICT HEATING SYSTEM THAT HAS AT LEAST ONE CUSTOMER AND HAS BEEN OPERATIONAL FOR LESS THAN ONE YEAR.

This definition is needed to clarify the difference between a new system and an existing system. The contents of the application for each type of system are different. It is reasonable to clearly define "new system" because it is a phrase which can mean something different to each reader.

SUBPART 9. OPERATING EXPENSES. "OPERATING EXPENSES" MEANS THE EXPENSES DIRECTLY AND PROPERLY ATTRIBUTABLE TO THE OPERATION OF THE PROJECT ON AN ANNUAL BASIS INCLUDING: EXPENSES FOR OPERATION, MAINTENANCE, REPAIRS, ORDINARY REPLACEMENT, ORDINARY ACQUISITION OF EQUIPMENT, FUEL AND HEAT, LABOR AND FRINGE BENEFITS, LEASE RENTAL PAYMENTS, INSURANCE PREMIUMS, ADMINISTRATION, LEGAL SERVICES, ENGINEERING SERVICES, PAYMENTS OF ALL INDEBTEDNESS, AND ANY OTHER CURRENT EXPENSES OR OBLIGATIONS REQUIRED TO BE PAID BY THE MUNICIPALITY OR OWNER OF THE DISTRICT HEATING PROJECT, ALL TO THE EXTENT PROPERLY AND DIRECTLY ATTRIBUTABLE TO THE OPERATION OF THE DISTRICT HEATING PROJECT. OPERATING EXPENSES DO NOT INCLUDE ANY COSTS OF EXPENSES FOR NEW CONSTRUCTION OR ANY ALLOWANCE FOR DEPRECIATION.

This definition is needed to show what annual expenses for operation would be used in calculating the debt service coverage. Several non-exclusive examples of such expenses are given. Since there may be confusion over capital and depreciation expenses, these are specifically excluded. It is reasonable for a reader to know the criteria that will be used to calculate the debt service coverage.

7380.0610 CONTENTS OF APPLICATION FOR A NEW SYSTEM

- A. A COMPLETED APPLICATION FOR A CONSTRUCTION LOAN TO A NEW SYSTEM MUST CONTAIN THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE RESPONSIBLE OFFICIAL OF THE MUNICIPALITY.

It is reasonable to require this information so that the department will have a contact person for each application and because the Authority must have a method of identifying each applicant and contacting responsible individuals in the event a question must be asked to clarify an issue prior to approval.

B. COMPLETE ENGINEERING DESIGN OF THE DISTRICT HEATING PROJECT INCLUDING:

This is needed because a project must be thoroughly engineered before the application can be properly evaluated. Also, a municipality must do significant preliminary work to arrive at the point where a decision to design and build a district heating system can be made. It is reasonable to require such work be completed prior to loan approval.

(1) AN ANALYSIS OF THE PROPOSED PIPING LAYOUT WHICH MUST ADDRESS OPTIMUM SERVICE TO THE TOTAL DESIGNATED AREA, RELIABILITY OF SERVICE, SYSTEM TEMPERATURES AND PRESSURE REQUIREMENTS, THERMAL AND HYDRAULIC OPERABILITY FOR NORMAL AND EMERGENCY CONDITIONS, OPTIMUM PIPING CONFIGURATION TO PROVIDE SERVICE, AND FLEXIBILITY FOR FUTURE EXPANSION.

In order to properly evaluate applications, it is necessary and reasonable for the commissioner to require the completion of a comprehensive engineering design of the district heating project.

The piping layout of a project will have a significant effect on the capital costs, reliability, operating costs and the overall feasibility of a project. Because the expansion potential of a project is used by the Authority to determine project priority, it is necessary for information for future expansion to be included in the application. It is reasonable to require applicants to furnish detailed

information about piping layout since this information will affect the feasibility of the project, and also the project's priority as determined by the Authority.

(2) AN ANALYSIS OF THE PROPOSED PIPING DESIGN THAT MUST ADDRESS RELIABILITY OF SERVICE, EASE OF CONSTRUCTION, EASE OF MAINTENANCE, INSTALLATION METHODS, AND SPECIFICATIONS AND STANDARDS, AND

Likewise, piping design is important in regard to the capital costs, reliability and operating costs of a project. Information concerning piping design is needed in order to properly evaluate applications.

(3) AN ANALYSIS OF THE HEAT SOURCE DESIGN THAT MUST DEFINE THE PROPOSED RULES OF THE FOLLOWING HEAT SOURCES IN THE DEVELOPMENT AND THE FUTURE OPERATION OF THE SYSTEM: BASE LOAD HEATING PLANT, PEAKING PLANTS, LARGE BOILER PLANTS IN EXISTING BUILDINGS, MOBILE BOILERS, ACCUMULATORS, AND FUTURE HEAT SOURCES SUCH AS SOLID WASTE, SOLAR, AND INDUSTRIAL WASTE HEAT.

Additionally, the design of the heat source to be used in a district heating project is an important part of the preliminary engineering study. The heat source will absorb a majority of project funding. The heat source's dependability is essential for a system to be successful. Therefore, complete information concerning the heat source is necessary in order to evaluate the project's feasibility.

C. A MARKET STUDY OF CUSTOMERS WHO REPRESENT 90 PERCENT OF THE PROPOSED THERMAL LOAD OF THE DISTRICT HEATING SYSTEM. THIS STUDY MUST SHOW DETAILED INFORMATION ON PRESENT FUEL CONSUMPTION OR HEATING DEMAND AND THE PRESENT HEATING SYSTEM IN EACH BUILDING.

This information is necessary and reasonable because the heating demand must be sufficient to generate enough revenue to repay the loan.

- D. A PRELIMINARY EXPANSION PLAN SHOWING HOW THE SYSTEM COULD BE EXPANDED TO SERVE OTHER PARTS OF THE COMMUNITY.

This is needed because it is a criteria which the Authority will use to assign a higher priority to a project. This criteria is stated in Minnesota Statutes, Section 116J.36 Subdivision 4.

Once a district heating system is established it is often economically attractive to expand the system to other parts of the community, therefore is reasonable to expect a project to take account of such possible future expansion in the early planning stages.

- E. A COMPLETE ECONOMIC ANALYSIS, INCLUDING:

- (1) A PRELIMINARY FINANCING AND DEVELOPMENT PLAN FOR THE DISTRICT HEATING SYSTEM PREPARED BY A FINANCIAL CONSULTANT;
- (2) CASH FLOW, INCOME, AND BALANCE SHEETS FOR THE TIME PERIOD OF THE LOAN;
- (3) A COST ESTIMATE AND EXPENDITURE SCHEDULE FOR ALL TRANSMISSION AND DISTRIBUTION PIPING, HEAT SOURCE CONVERSION, PURCHASE OR RENTAL; OPERATING AND MAINTENANCE COSTS EXCLUDING FUEL COSTS, AND BUILDING CONVERSION COSTS; AND
- (4) A STATEMENT SHOWING THE SOURCE OF ALL OF THE FUNDS TO BE USED BY THE APPLICANT FOR THE DESIGN OR CONSTRUCTION OF A SYSTEM, AND THE AMOUNT OF FUNDS FROM EACH SOURCE.

This is needed because a comprehensive economic analysis with detailed cost figures is vitally important to any financial analysis. This information is needed to evaluate the reasonableness of the cost of the project; it is necessary to know the costs of the system's component parts. Cash flow

information is necessary in order to verify if the loan for the district heating project can be repaid on an annual basis, while still maintaining reserve and repair accounts.

- F. A CERTIFICATION BY THE MUNICIPALITY THAT A BID PACKAGE FOR THE CONSTRUCTION OF THE PROJECT HAS BEEN COMPLETED AND IS AVAILABLE TO THE DEPARTMENT OF PUBLIC SERVICE IF REQUESTED.

This is needed because a construction bid package is an important step for construction and can ultimately have an effect on system quality and reliability. This is a reasonable request in the application because it may be necessary for the commissioner to examine the bid package in order to properly evaluate a proposal.

- G. A COPY OF THE STANDARD CONTRACT ENTERED INTO WITH CUSTOMERS OF THE PROJECT AND A LIST OF CUSTOMERS ALREADY UNDER CONTRACT, LISTING THE THERMAL LOAD OF EACH CUSTOMER PRESENTLY UNDER CONTRACT AND COMPARING THE TOTAL OF THE THERMAL LOAD ALREADY CONTRACTED WITH THE TOTAL LOAD OF THE DISTRICT HEATING PROJECT.

This is needed because the terms of the customer contract can have a significant effect on the financial viability of a system. The revenues of the project are based on the heat load. Therefore, customer commitment shows the district heating project's ability to produce revenues for loan repayment. It is reasonable to expect a legal commitment from customers at this point, if construction is to proceed, and therefore it is reasonable to include the commitment as part of the application.

- H. WHERE APPLICABLE, A COPY OF ANY CONTRACT FOR THE FURNISHING OF HEAT AND FUEL FOR THE DISTRICT HEATING PROJECT.

This is needed since the contract terms for heat or fuel that a district heating system must comply with and can have a major effect on operating costs. It is reasonable for the



commissioner to have this information available when evaluating the financial stability of the project. This is especially true for solid waste and fiber fuels district heating projects. Contracts for the delivery of solid waste or fiber fuels are essential to guarantee that the project will have an adequate fuel supply to operate.

- I. A RESOLUTION IN SUPPORT OF THE PROJECT FROM THE GOVERNING BODY OF THE MUNICIPALITY THAT MUST INCLUDE THE PLEDGES THE MUNICIPALITY PROPOSES TO MAKE TO GUARANTEE REPAYMENT OF THE LOAN AND EVIDENCE OF THE MUNICIPALITY'S CAPABILITY TO SPONSOR THE DISTRICT HEATING PROJECT.

Under Minnesota Statutes, Section 116J.36, Subdivision 3 the Authority must determine eligibility for loans and under what terms loans will be given. Therefore, each municipality's financial capability and repayment guarantees are needed to make such determinations. It is reasonable to expect a municipality to show evidence of financial capability before a loan is made to them and is also reasonable since the resolution indicates that the governing body is aware of the commitment it has undertaken for itself and the municipality.

- J. IDENTIFICATION OF ALL LICENSES, PERMITS, ZONING REGULATIONS, AND ANY OTHER REQUIREMENTS OF FEDERAL, STATE, OR LOCAL GOVERNMENTS WITH WHICH THE PROJECT WOULD BE EXPECTED TO COMPLY AND THE PRESENT STATUS OF COMPLIANCE WITH EACH.

This is necessary and reasonable in order to avoid project delay or interruption due to not having completed all required governmental regulations and permit processes.

- K. A LIST OF KEY PERSONNEL AND THEIR QUALIFICATIONS AS THEY RELATE TO THE DISTRICT HEATING PROJECT.

This is needed because the participation of qualified people is of vital importance to the success of district heating

development. If district heating project personnel are not qualified, the system may not be designed properly. State funds would be in jeopardy because of inadequate system design.

- L. AN ESTIMATE OF THE TYPE AND AMOUNT OF FUEL TO BE SAVED PER YEAR FROM THE FULL OPERATION OF THE DISTRICT HEATING SYSTEM COMPARED TO THE TYPE AND AMOUNT OF FUEL USED BY THE EXISTING SYSTEM.

This is needed because two of the stated purposes of Minnesota Statutes, Section 116J.36, Subdivision 1 are to increase energy efficiency and to reduce the need for imported energy supplies. This criteria is used by the Authority to assign a higher priority to a project. It is reasonable to require energy information to determine if a project fulfills these purposes.

- M. A COPY OF A COMPLETED ENVIRONMENTAL IMPACT STATEMENT, OR A NEGATIVE DECLARATION OF THE NEED FOR AN ENVIRONMENTAL IMPACT STATEMENT FROM A COMPLETED ENVIRONMENTAL ASSESSMENT WORKSHEET, OR IN THOSE CASES WHERE NO ENVIRONMENTAL ASSESSMENT WORKSHEET IS REQUIRED, A STATEMENT AS TO THE ENVIRONMENTAL EFFECTS OF THE PROJECT.

Minnesota Statutes, Section 116J.36, subd. 4 gives priority to environmentally benign projects, so this information is needed by the Authority to assign a higher priority to a project. In most cases, district heating projects will have minimal environmental effects. It is expected that few, if any will require an Environmental Impact Statement (EIS). It is reasonable to require a negative declaration with a waiver provision. In those cases where an EIS is needed or if no environmental regulations apply, then the municipality must present environmental information to the Authority because under Minnesota Statute Ch. 116E and Section 116P.04 Subdivision 4 any state agency must consider impact upon the

environment. In all cases, environmental information is submitted to the Authority. This becomes part of the application and is therefore considered in the evaluation.

7380.0620 CONTENTS OF APPLICATION FOR AN EXISTING SYSTEM

This part describes the contents of each loan application for applicants with an existing district heating system. It includes a complete description of the required contents of an application. The majority of the information required is needed to identify the applicant and contact individuals, and to describe in detail the preliminary work necessary before a district heating project is eligible for a loan. It is necessary and reasonable for the Authority to adopt application content requirements.

- A. A COMPLETED APPLICATION FOR A CONSTRUCTION LOAN TO AN EXISTING SYSTEM MUST CONTAIN THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE RESPONSIBLE OFFICIAL OF THE MUNICIPALITY.

It is reasonable to require this information so that the department will have a contact person for each application and because the Authority must have a method of identifying each applicant and contacting responsible individuals is the event a question must be asked to clarify an issue prior to approval.

- B. BACKGROUND INFORMATION ON THE EXISTING SYSTEM INCLUDING: OWNERSHIP, TYPE AND SIZE OF HEAT SOURCE, HEAT SOURCE CAPACITY, BACK-UP BOILERS, CUSTOMERS BASE, INCLUDING INFORMATION ON PROCESS LOADS.

This is needed to allow for a thorough understanding of the existing system by the Authority. The information required here is needed in order to more fully understand the district heating project. Since all this information should be

readily available to the applicant, this is a reasonable request.

C. COMPLETE ENGINEERING DESIGN OF THE EXPANSION PROJECT, INCLUDING:

This is needed because an expansion project must be thoroughly engineered before an application can be properly evaluated. Also, a municipality must do significant preliminary work to arrive at the point where an decision to expand a district heating system can be made. It is reasonable to require such work be completed prior to a loan approval.

(1) AN ANALYSIS OF THE PROPOSED PIPING LAYOUT, SYSTEM TEMPERATURES AND PRESSURE REQUIREMENTS, AND FLEXIBILITY FOR FUTURE EXPANSION; AND

This information is needed because the piping layout of a project will have a significant effect on the capital costs, reliability, operating costs and the overall feasibility of a project. Because the expansion potential of a project is used by the Authority to determine project priority, as stated in Minnesota Statutes, Section 116J.36, Subdivision 4, it is necessary for information concerning flexibility for future expansion to be included in the application. It is reasonable to require applicants to furnish detailed information about piping layout since this information will affect the feasibility of the project, and also the project's priority as determined by the Authority.

(2) AN ANALYSIS OF THE HEAT SOURCE, INCLUDING THE CAPACITY AVAILABLE AND INFORMATION CONCERNING THE BACK-UP HEAT SOURCE.

This is needed since the heat source is a vital part of the district heating system. It is reasonable to require an analysis of the primary and back-up heat sources to be

certain of their ability to handle the proposed expansion to the system. The heat source will also absorb a majority of project funding. The heat sources dependability is essential for a system to be successful. Therefore, complete information concerning the heat source is necessary in order to evaluate the project's feasibility.

- D. A DISCUSSION OF PROPOSED CUSTOMER LOAD INCLUDING INFORMATION ON PRESENT FUEL CONSUMPTION OR HEATING DEMAND AND THE PRESENT HEATING SYSTEM IN EACH BUILDING FOR NEW CUSTOMERS.

This information is necessary and reasonable because the heating demand must be sufficient to generate enough revenue to repay the loan.

- E. A COMPLETE DISCUSSION OF HOW THE LOAN IS TO BE SECURED, THE CURRENT OUTSTANDING DEBT OF THE APPLICANT, AND THE CASH FLOW FOR THE TERM OF THE LOAN. THIS DISCUSSION MUST ALSO CONTAIN A COST ESTIMATE AND EXPENDITURE SCHEDULE FOR ALL TRANSMISSION AND DISTRIBUTION PIPING, HEAT SOURCE CONVERSION, PURCHASE OR RENTAL, OPERATING AND MAINTENANCE COSTS EXCLUDING FUEL COSTS, AND BUILDING HEATING CONVERSION COSTS.

Under Minnesota Statutes, Section 116J.36, Subdivision 3 the Authority must determine eligibility for loans and under what terms loans will be given. Each municipality's financial capability and repayment guarantees are needed to make such determinations. An estimate of each item's costs and a schedule of when expenses are expected to occur are also needed to make a sound economic analysis. It is necessary that the Authority know how the entire project is to be financed in order to review it. A municipality's outstanding debt must be seen in order to verify if cash flow will allow for loan repayment. Therefore, it is reasonable to ask for this information.

- F. A CERTIFICATION BY THE MUNICIPALITY THAT A BID PACKAGE FOR THE CONSTRUCTION OF THE PROJECT HAS BEEN COMPLETED AND IS

AVAILABLE TO THE DEPARTMENT OF PUBLIC SERVICE IF REQUESTED.

This is needed because a construction bid package is an important step for construction and can ultimately have an effect on system quality and reliability. This is a reasonable request in the application because it may be necessary to examine the bid package in order to properly evaluate a proposal.

- G. A COPY OF THE STANDARD CONTRACT ENTERED INTO WITH THE CUSTOMERS OF THE PROJECT AND A LIST OF CUSTOMERS ALREADY UNDER CONTRACT AND THE TOTAL LOAD IT REPRESENTS.

This is needed because the terms of the customer contract can have a significant effect on the viability of a system. The revenues of the project are based on the heatload.

Therefore, customer commitment shows the district heating project's ability to produce revenues for loan repayment. It is reasonable to expect a legal commitment from customers at this point, if construction is to proceed. Furthermore, a large number of customers generally indicate more stable revenues, in that if one or two customers withdraw, the effect is minimal. Therefore, it is reasonable to include the commitment as part of the application.

- H. A COPY OF ANY CONTRACT FOR THE FURNISHING OF HEAT.

This is needed because the contract terms for the furnishing of heat which a district heating system must comply with can have a major effect on operating costs. It is reasonable for the Authority to have this information available when evaluating the financial stability of the district heating project.

- I. A COPY OF ANY CONTRACT FOR THE FURNISHING OF FUEL FOR THE DISTRICT HEATING PROJECT IF THIS IS A WASTE-TO-ENERGY DISTRICT HEATING PROJECT.

This is needed because the contract terms for the furnishing of the fuel, in a waste-to-energy project, can have a major effect on operating costs. It is reasonable for the Authority to have this information available when evaluating the financial stability of the district heating project.

This is especially true for solid waste and fiber fuels district heating projects. Contracts for the delivery of solid waste or fiber fuels is essential to guarantee that the project will have an adequate fuel supply to operate.

- J. A RESOLUTION IN SUPPORT OF THE PROJECT FROM THE GOVERNING BODY OF THE MUNICIPALITY THAT MUST INCLUDE THE PLEDGES THE MUNICIPALITY PROPOSES TO MAKE TO GUARANTEE REPAYMENT OF THE CONSTRUCTION LOAN AND EVIDENCE OF THE MUNICIPALITY'S CAPABILITY TO SPONSOR THE DISTRICT HEATING PROJECT.

Under the Minnesota Statutes, Section 116J.36, Subdivision 3 the Authority must determine eligibility for loans and under what terms loans are to be given. Therefore, a municipality's financial capability and repayment guarantees are needed before making a loan. It is reasonable to expect a municipality to show evidence of financial capability before a loan is made to them and also reasonable since the resolution indicates that the governing body is aware of the commitment it has taken on for itself and the municipality.

- K. IDENTIFICATION OF ALL LICENSES, PERMITS, ZONING REGULATIONS, AND OTHER REQUIREMENTS OF FEDERAL, STATE OR LOCAL GOVERNMENTS WITH WHICH THE PROJECT WOULD BE EXPECTED TO COMPLY AND THE PRESENT STATUS OF EACH.

This is necessary and reasonable in order to avoid project delay or interruption due to not having completed all required governmental regulations and permit processes.

7380.0630 APPLICATION PROCEDURE

This section is needed to inform applicants about the submitting process: the number of copies required, the review and evaluation process, the criteria utilized, and the manner in which approval of an application is achieved.

SUBPART 1. SUBMITTING. THE APPLICANT SHALL SUBMIT TEN COPIES OF A COMPLETED APPLICATION TO THE CHAIR OF THE AUTHORITY ON A FORM PROVIDED BY THE AUTHORITY.

Informs applicants that ten copies are required. Because of the number of people who help evaluate an application, it is necessary for an adequate number of copies to be available. Ten is a reasonable number since this will ensure that each evaluator will have their own copy, in addition to the original copy for the master file.

The applicant is also informed that application forms will be provided to the applicant by the Authority and that the completed application should be submitted to the Chair of the Authority. This requirement is necessary to insure that applicants are informed as to how application forms are obtained, and to whom the application is submitted.

SUBPART 2. REVIEW BY DEPARTMENT OF PUBLIC SERVICE. WHEN AN APPLICATION IS RECEIVED BY THE CHAIR, COPIES OF THE APPLICATION SHALL BE SENT TO THE COMMISSIONER OF THE DEPARTMENT OF PUBLIC SERVICE FOR REVIEW. THE COMMISSIONER OF PUBLIC SERVICE SHALL PREPARE AND SUBMIT TO THE AUTHORITY A TECHNICAL EVALUATION AND A RECOMMENDATION ON THE APPLICATION.



This subpart is necessary to inform the applicant that the Authority provides copies of the application to the Commissioner of Public Service for review and evaluation, and that the Commissioner of Public Service prepares and submits a technical evaluation and recommendation to the Authority. It is reasonable as it is consistent with statute.

7380.0640 AUTHORITY REVIEW AND EVALUATION

SUBPART 1. THE AUTHORITY WILL REVIEW THE APPLICATION FOR COMPLIANCE WITH MINNESOTA STATUTES, SECTION 116J.36, AND THE RULES OF THIS PART IN CONJUNCTION WITH THE RECOMMENDATION OF THE COMMISSIONER OF PUBLIC SERVICE ON THE APPLICATION. THE AUTHORITY SHALL ALSO REVIEW THE COMMISSIONER OF PUBLIC SERVICE PRIORITY LIST FOR FUNDING DISTRICT HEATING LOANS THAT MUST BE BASED ON THE REQUIREMENTS UNDER MINNESOTA STATUTES, SECTION 116J.36, SUBDIVISIONS 3, 4, 5, 6, AND 7. THE AUTHORITY SHALL GIVE HIGHER PRIORITY TO A PROJECT AS PROVIDED IN MINNESOTA STATUTES, SECTION 116J.36, SUBDIVISION 4.

THE COMMISSIONER OF FINANCE SHALL SELL BONDS AND THE AUTHORITY SHALL MAKE LOANS FOR DISTRICT HEATING PROJECTS ONLY UPON THE RECOMMENDATION OF THE COMMISSIONER OF PUBLIC SERVICE.

IF THE AUTHORITY DISAPPROVES THE APPLICATION, THE CHAIR SHALL NOTIFY THE APPLICANT IN WRITING.

This subpart is needed to review and clarify the procedure the Authority will follow with each application it receives. It is necessary and reasonable to inform the applicant of those involved in applying the criteria to the application, what the criteria is, and that the Authority can only approve applications that have been recommended by the Commissioner of Public Service.

It is also reasonable to, inform, in writing, an applicant whose application has been rejected.

7380.0650      REPORTS AND MONITORING

SUBPART 1.      QUARTERLY PROJECT STATUS REPORT. THE MUNICIPALITY SHALL SUBMIT TO THE AUTHORITY, ON FORMS PROVIDED BY THE AUTHORITY, A QUARTERLY PROJECT STATUS REPORT. THIS REPORT IS DUE WITHIN 30 DAYS OF THE END OF EACH CALENDAR QUARTER UNTIL THE DESIGN OR CONSTRUCTION OF THE DISTRICT HEATING PROJECT IS COMPLETED. PROJECTS BEGUN PART WAY THROUGH A QUARTER MUST SUBMIT A QUARTERLY REPORT FOR THE PORTION OF THE QUARTER DURING WHICH THE PROJECT WAS ACTIVE. THE PROJECT STATUS REPORT MUST INDICATE THE PROGRESS OF THE IMPLEMENTATION OF THE DISTRICT HEATING PROJECT FUNDED, PROBLEMS ENCOUNTERED, THE EFFECT OF THE PROBLEMS ON THE PROJECT, AND THE CORRECTIVE ACTION TAKEN. THE AUTHORITY SHALL, IN CONSULTATION WITH THE COMMISSIONER OF PUBLIC SERVICE, DECLARE THE ENTIRE LOAN AMOUNT DUE AND PAYABLE IF THE AUTHORITY DETERMINES THAT A PROJECT DOES NOT SUBSTANTIALLY CONFORM TO THE CONSTRUCTION SCHEDULE OR IF THERE HAS BEEN SUBSTANTIAL NONCOMPLIANCE WITH REPORTING REQUIREMENTS. THE EXECUTIVE DIRECTOR OF THE AUTHORITY SHALL INFORM THE MUNICIPALITY IN WRITING OF ANY NONCOMPLIANCE WITH THE CONSTRUCTION SCHEDULE OR REPORTING REQUIREMENTS AND OF THE TIME IN WHICH THE MUNICIPALITY MUST CORRECT THE DEFICIENCIES TO THE AUTHORITY'S SATISFACTION. IF THE DEFICIENCIES ARE NOT CORRECTED TO THE AUTHORITY'S SATISFACTION, THE AUTHORITY SHALL DECLARE THE ENTIRE AMOUNT OF THE LOAN DUE AND PAYABLE.

The subpart describes the contents of the status report, stating that it must indicate the progress of the implementation of the measures funded, problems encountered, the effect of the problems on the project, and the corrective action taken. This section is needed for two reasons: for the Authority to determine that the project is actually in

progress and the loan funds are being properly used; and also for the Authority to have early notification of any municipalities having difficulties with project implementation. Those having difficulties may be offered assistance in resolving the problems if the problems are known about soon enough. This provision is reasonable because the Authority must have some method of carrying out its duty to see that funds are correctly used and because, if informed, the Authority may be able to offer assistance not only to the municipality involved, but may be able to solve in advance potential problems for future loan recipients.

The subpart continues by stating that if at any time the municipality fails to substantially comply with the start and end dates given in the approved loan application, and if the district cannot reasonably justify its lack of progress, the entire loan amount may become due and payable at the discretion of the Authority. This part is needed as a sanction to use in the event it becomes obvious that a loan recipient is not using the loan as agreed upon by both parties. It is reasonable because the past allows leeway for municipalities that fail to comply with start and end dates for good reason. It is also reasonable not to require the Authority to call in all loans which cannot meet their estimated timelines, since there can exist justifiable reasons for deviation from timelines.

SUBPART 2. QUARTERLY FINANCIAL REPORT. THE MUNICIPALITY SHALL SUBMIT TO THE AUTHORITY, ON FORMS PROVIDED BY THE AUTHORITY, A QUARTERLY FINANCIAL STATUS REPORT THAT INDICATES EXPENDITURES OF LOAN FUNDS THROUGH THE LAST DATE OF EACH QUARTER. THIS REPORT IS DUE WITHIN 30 DAYS OF THE END OF EACH CALENDAR QUARTER UNTIL THE DESIGN OR CONSTRUCTION OF THE DISTRICT HEATING PROJECT IS COMPLETED AND ALL EXPENSES APPLICABLE TO THE LOAN ARE PAID. PROJECTS BEGUN PART WAY THROUGH A QUARTER MUST SUBMIT A QUARTERLY REPORT FOR THE PORTION OF THE QUARTER DURING WHICH THE PROJECT WAS ACTIVE.

Subpart 2 describes the quarterly financial report. This report, which describes expenditures of loan funds through the last date of each quarter, must be submitted to the Authority within 30 days of the end of each quarter. These reports must be submitted until the project is completed. These reports are needed to assure the Authority that funds are, in fact, being disbursed as work proceeds on the project. This is reasonable because it keeps the Authority informed of expenditures on a timely basis, and is an element of monitoring to ensure fiscal responsibility.

SUBPART 3. FINAL REPORT. WITHIN 60 DAYS OF THE COMPLETION OF THE PROJECT, THE MUNICIPALITY SHALL SUBMIT TO THE AUTHORITY, ON FORMS PROVIDED BY THE AUTHORITY, A FINAL FINANCIAL STATUS REPORT THAT GIVES EXPENDITURES OF THE DISTRICT HEATING PROJECT. THE FINAL FINANCIAL REPORT SHALL GIVE ACTUAL EXPENDITURES FOR THE COSTS INCURRED.

Subpart 3 describes the final report that must be submitted to the Authority within 60 days of project completion on forms supplied by the Authority. Final reports are needed stating that the work is completed and provides data necessary to evaluate the program's effectiveness. It is reasonable for the Authority to have written information which assures project completion and which can provide a means with which to evaluate the program's effectiveness.

SUBPART 4. FAILURE TO COMPLY WITH PROVISIONS OF PART. IF THE MUNICIPALITY FAILS TO COMPLY WITH ANY OF THIS PART, THE MUNICIPALITY MAY, WITH THE ADVICE AND CONSENT OF THE AUTHORITY, BE DECLARED INELIGIBLE FOR FURTHER CONTRACTS WITH THE STATE UNDER THE DISTRICT HEATING LOAN PROGRAM.

This subpart states that if a municipality is unwilling to fully comply with the provision of the loan agreement, that

the municipality may be declared ineligible for further district heating contracts. It is reasonable to require that a loan recipient adhere to the loan agreement with the Authority, and to inform the loan recipient of the penalty if they fail to do so.

PFA I/21-(1-12)